REMARKS / ARGUMENTS

Claims 21, 23-26, 28-30, 32-35 and 37-39 remain pending in this application.
No claims have been canceled. New claim 39 has been added.

35 U.S.C. §112

The claims have been amended to overcome the Examiner's rejection under
this section. In particular, in claim 21, the steps of monitoring and detecting have
been amended to clarify that the operation situation is monitored in the at least one
mobile terminal based on execution of the application programs with the processing
device. Furthermore, the arrival of a timing for distributing information is detected
when the operation situation satisfies a predetermined reference and execution of
the waiting program with the processing device is started.

This is different from the Examiner's interpretation of the claim language,
namely that "the mobile terminal (phone) is constantly being tracked and monitored
via a global positioning system (GPS) or base station". This is also different from the
Examiner's further interpretation that "based on the location information, the mobile
terminal receives periodic advertisements and information". Applicants request that
the Examiner reconsider the interpretation of these portions of claim 21 based on the
clarification mentioned above. Claim 30 has been amended in a similar fashion.

Thus, according to the present invention, depending on the operation situation of the mobile terminal, information can be received from a server in a manner that is convenient to a user.

35 U.S.C. §102

Claims 21, 23-26, 28-30, 32-35 and 37-38 stand rejected under 35 U.S.C. §102(e) as being anticipated by Shioda et al (U.S. Pub. No. 2002/0044639). These rejections are traversed as follows.

As clarified in the pending claims, the operation situation is monitored in a mobile terminal based on execution of application programs with a processing device of the mobile terminal. When the operation situation satisfies a predetermined reference, the arrival of a timing for distributing information is detected, and as recited in claims 21 and 30, a waiting program is started. Then, a request for distributing information based on preset content, is transmitted to an information server by execution of the waiting program in the mobile terminal. This way, the mobile terminal can request information to be distributed from an information distribution server at the appropriate time to the user's convenience.

Shioda et al do not disclose or suggest the above-mentioned features of the presently claimed invention. Shioda et al are silent with respect to a communication terminal device having a waiting program as recited. Instead, Shioda et al disclose the functions and structure of a communication company's facility. Furthermore, the

distribution of advertisement information in Shioda et al is performed by execution of

an off-hook operation by the communication terminal which is related to the

telephone function of the communication terminal. Shioda et al do not disclose a

waiting program that is different from application programs realizing an email function

and a phone function as recited in the claims.

In the Response to Arguments section on pages 8 and 9 of the Office Action,

the Examiner indicates that Shioda et al disclose distributing advertisement

information based on geographical position and that they may be distributed at

predetermined intervals, referring to paragraphs [0072] and [0100]. However, these

portions of Shioda et al refer to the distribution of advertisement information in a

communication company's facility 20, but do not relate to a waiting program in a

mobile terminal that transmits a request for distribution of information to an

information distribution server based upon an operation situation of the mobile

terminal.

The Examiner further refers to paragraphs [0089] - [0091] of Shioda et al for

disclosing that information is distributed to the phone based upon a function of the

telephone and that the function of the phone is interpreted broadly to mean any

method of using the phone. However, these paragraphs refer to a program

executing a telephone function of detecting an off-hook state of the telephone. This

is completely different from a waiting program stored in a memory of a mobile

terminal that is different from application programs executing email functions and

phone functions as recited in the claims.

Furthermore, new claim 39 has been drafted in order to define the present

invention in a slightly different manner. This claim has been written to assist the

Examiner's understanding of the claimed invention in order to further clarify the

differences between the present invention and Shioda et al. As such, it is submitted

that all of the independent claims patentably define the present invention over the

cited art.

With respect to dependent claims 23 and 32, the operation situation is further

defined as the presence or absence of calls, the amount of traffic and the amount of

various process data using the at least one mobile terminal in accordance with

execution of the waiting program with the processing device. The Examiner refers to

paragraph [0070] of Shioda et al. However, this portion of Shioda et al does not

disclose any such operation situation as claimed and certainly does not disclose the

execution of a waiting program in the mobile terminal. Instead, this portion of Shioda

et al merely refers to the off-hook state of the communication terminal. The

remaining dependent claims also include further details of the waiting program which

are neither disclosed nor suggested by Shioda et al. As such, it is submitted that the

dependent claims further distinguish the present invention over the cited art.

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Conclusion

In view of the foregoing, Applicants respectfully request that a timely Notice of

Allowance be issued in this case.

Respectfully submitted,

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